

- SUBJECT:** Defining controlling interest for business margins tax purposes
- COMMITTEE:** Ways and Means — favorable without amendment
- VOTE:** 11 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Paxton, Peña, Taylor, Villarreal
- 0 nays
- WITNESSES:** For — Bob Owen, Donna Rutter, Texas Society of CPAs
- Against — None
- BACKGROUND:** The Tax Code, sec. 171.0001(8), defines controlling interest for the corporate and partnership business forms. For a corporation, controlling interest is defined as either more than 50 percent, owned directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than 50 percent, owned directly or indirectly, of the beneficial ownership interest in the voting stock of the corporation.
- For a partnership, association, trust, or other entity other than a limited liability company, limited liability is defined as more than 50 percent, owned directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity.
- For a limited liability company, controlling interest is defined as either more than 50 percent, owned directly or indirectly, of the total membership interest of the limited liability company or more than 50 percent, owned directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.
- DIGEST:** HB 4265 would amend Tax Code, sec. 171.0001(8), by defining controlling interest as applied to different business structures for margins tax purposes.
- For a partnership, controlling interest would mean more than 50 percent, owned directly or indirectly, of the capital or profits interest in the partnership.

For an association, controlling interest would mean more than 50 percent, owned directly or indirectly, of the capital or profits interest in the association.

For a trust, controlling interest would mean more than 50 percent, owned directly or indirectly or indirectly, of the current beneficial interest in the trust corpus or income.

For a limited liability company, controlling interest would mean either:

- more than 50 percent, owned directly or indirectly, of the total membership interest of the limited liability company; or
- more than 50 percent, owned directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.

For any other entity, controlling interest would be defined as more than 50 percent, owned directly or indirectly, of the capital or profits interest in the entity.

This bill would take effect on January 1, 2010.

**SUPPORTERS  
SAY:**

HB 4265 would clean up Tax Code, sec. 171.0001(8), by separating out the different definitions of controlling interest. Under current law, only the definition of controlling interest as it applies to a corporation is separately defined using appropriate terms specific to that business structure. Since the definitions of controlling interest for other business forms are jumbled together under sec. 171.0001(8), confusion results from having different business forms and structures together in the same definition. As not all of the terms properly apply to all of the business structures, differing and inconsistent interpretations can be derived from current law. HB 4265 solves this problem by drawing out each structure and specifically defining controlling interest for each one. This clarification would make enforcement of and compliance with the law easier.

**OPPONENTS  
SAY:**

No apparent opposition.